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Business use of a Home and Building Code Regulations

This handout was put together to provide some information regarding home/business arrangements and what building code regulations may apply. The codes used for this discussion are the 2009 International Residential Code (IRC), the 2009 International Building Code (IBC) and the 2009 International Existing Building Code (IEBC) as adopted by the State of Maine. Additional Local, State and Federal laws and rules may apply as well but are beyond the scope of this handout. In reading any of the codes, you will not find the terms “Home Occupation”, “Home Business”, or any other phrase containing both Home and Business, these are local zoning terms.

The IEBC applies to both residential and nonresidential buildings; start here if you are modifying an existing building. The IRC is the residential code and applies to one and two family dwellings and townhouses. Nonresidential areas within these buildings are beyond the scope of this code and the IBC must be used. In a few instances, the IBC will send you back to the IRC but these are limited to only a few occupancies; the applicable sections in the IBC are 308.2, 308.5 and 310.1 R-3 and R-4 which address Institutional, Congregate Living and Residential Care Service arrangements. The sections generally set thresholds for review under the IRC, and if exceeded, review must be completed under the IBC.

In Topsham, local zoning ordinances may allow varying forms of home occupations. The zoning ordinances should not be mixed with the building codes, as stated previously, a home occupation is a zoning term not found in the codes. Home based business where zoning local applies but the code does not are ones where the business and the home both use the same space and no nonresidential areas are created specifically for and dedicated to the business use. Where these small businesses are incorporated within a private home, the intent of the code is that the occupancy classification of the home does not change; no building permit is required for these types of home businesses.

Other home based businesses are ones where the business area use of the home is discernibly different from and not incorporated into the residential use. This type of home business is a mixed occupancy condition that will require a commercial building permit and compliance with the IBC; in most cases a licensed Architect will be required to design the project in accordance with permitting requirements.